

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Petitioner,

vs.

JONATHAN L. CRANER,

Respondent.

MEMORANDUM DECISION AND
ORDER GRANTING RENEWED
MOTION FOR CONTEMPT
SANCTIONS

Case No. 2:07-CV-831 TS

This matter comes before the Court on the government's Renewed Motion for Contempt Sanctions.¹ For the reasons below, the Court will grant the motion.

I. Background

Respondent Jonathan Craner ("Craner") failed to file a tax return for the 2004 and 2005 tax years and was subsequently investigated by the Internal Revenue Service ("IRS"). The IRS issued an Internal Revenue Summons ("the Summons") on April 18, 2007, pursuant to 26 U.S.C. § 7602.² Mr. Craner did not comply with the Summons, and at a show cause hearing held on December 11, 2007, in front of Judge Wells, agreed to cooperate with the IRS. On December 14,

¹Docket No. 17.

²See Docket No. 1.

2007, Judge Wells issued a Report and Recommendation³ finding that Mr. Craner failed to show cause as to why he should not be compelled to comply with the Summons.

Revenue Officer Pearson (“Pearson”) has attempted to contact Mr. Craner on several occasions and has been unsuccessful. Mr. Craner failed to appear at a meeting scheduled for December 18, 2007, at his home. When Pearson returned to her office on December 19, 2007, Mr. Craner and his wife had left two messages on Pearson’s voice mail stating that Mr. Craner missed the December 18 meeting due to an illness. Pearson called to reschedule, but was only able to leave a voice mail message. On December 28, 2007, Mr. Craner left a message for Pearson indicating that there had been a death in the family and that Mr. Craner would contact Pearson to reschedule.

Mr. Craner did not contact Pearson as promised and also did not file an objection to the Report and Recommendation. This Court adopted Judge Wells’ Report and Recommendation on January 22, 2008.⁴ Mr. Craner was ordered to comply with the Summons within 30 days of entry of the order, or by Thursday, February 21, 2008.

The government filed a Motion for Contempt,⁵ and this Court scheduled a hearing for March 31, 2008. At that hearing, it was determined that Mr. Craner had not received notice of either the Report and Recommendation, the Court’s January 22, 2008 Order, or the March 31 hearing. In order to afford Mr. Craner his full opportunity to object to the Report and Recommendation, the Court rescinded the January 22 Order adopting Judge Wells’ Report and

³Docket No. 7.

⁴Docket No. 8.

⁵Docket No. 9.

Recommendation and mailed a copy to Mr. Craner.

Mr. Craner did not file any objections with this Court and on May 5, 2008, this Court once again adopted Judge Wells' Report and Recommendation.⁶ Mr. Craner was given thirty days to comply with the Summons. As of June 10, 2008, Mr. Craner has not complied with the Court's May 5 Order. The government filed the instant Motion for Sanctions on June 10, 2008.

II. Discussion

Under 26 U.S.C. § 7604(b) states:

Whenever any person summoned under section . . . 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Secretary may apply to the judge of the district court . . . for a contempt. It shall be the duty of the judge . . . to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge . . . shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

Courts have imposed fines of \$100/day for every day of non-compliance with an IRS Summons.⁷

Mr. Craner was ordered to comply with the Summons by February 21, 2008, and he has failed to do so. Further, attempts at communication by Revenue Officer Pearson have gone largely unheeded and Mr. Craner has not followed through on his promises to contact Pearson or to comply with this Court's order.

III. Conclusion

It is therefore

⁶Docket No. 16.

⁷See *United States v. Ford*, 514 F.3d 1047, 1051 (10th Cir. 2008); *United States v. Rue*, 819 F.2d 1488, 1495 (8th Cir. 1987).

ORDERED that Petitioner's Renewed Motion for Contempt (Docket No. 17) be GRANTED. Respondent Craner is in contempt of this Court's January 22, 2008 order and a fine of \$100/day will be imposed from February 21, 2008. The fine will accrue until such time Respondent Craner complies with the requirements of the Summons.

DATED June 12, 2008.

BY THE COURT:



TED STEWART
United States District Judge